

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARLES L. DECESARE,

Plaintiff,

-against-

THE AETNA LIFE INSURANCE CO. and
THE DRESS BARN LONG TERM
DISABILITY PLAN,

Defendants.

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Civil Action No.
12 Civ. 7162 (KMK)

**PLAINTIFF'S RULE 34
REQUEST FOR
PRODUCTION OF
DOCUMENTS**

SIRS:

PLEASE TAKE NOTICE that pursuant to FRCP 34, plaintiff demands that defendants produce the following documents for discovery by the plaintiff, or his attorneys at the offices of THE LAW OFFICE OF BABARA A. MATARAZZO, attorney for the plaintiff, on the 22nd day of April, 2013, at 10:00 o'clock at 1025 Westchester Avenue, Suite 402, White Plains, New York 10604.

1. The complete underwriting file of plaintiff for coverage involved in this action.
2. A complete copy of the plaintiff's underwriting file regarding the placement of this insurance policy, including correspondences, memos, notes, emails, application, surveys, photos, doctor reports.
3. A complete copy of the defendant's claim file(s) with respect to the plaintiff's claims for short term and Long Term Disability Benefits, including, but not limited to, the home office file, field office file, investigative file(s), adjuster's file(s), even if the files have been turned over to counsel.

4. All correspondences related to plaintiff's claim for Long Term Disability Benefits between plaintiff and defendants, as their representatives.

5. A copy of the "Plan Documents" referenced in paragraph 42 of defendant's Answer to Amended Complaint.

6. A copy of the Group Policy of Insurance, bearing Policy#: GP-818946 referenced in paragraph 9 of defendant's Answer to Amended Complaint.

7. A copy of the "Administrative Record pertaining to plaintiff's claim kept and maintained by Aetna" referenced in paragraph 10 of defendant's Answer to Amended Complaint.

8. A copy of the "Plan Requirements, exclusions, and/or Limitations" referenced in paragraph 43 of defendant's Answer to Amended Complaint.

9. A copy of the "Finding of the Social Security Administration with respect to plaintiff's claim for SSDI benefits" referenced in paragraph 44 of defendant's Answer to amended Complaint.

10. A copy of the complete file of Dr. Swotinsky with regard to evaluation of the plaintiff, including but not limited to, interview sheets, notes, reports, medical tests and results, whether or not Aetna reviewed them in making its determination on plaintiff's claims.

11. A copy of the complete file of Dr. Garvey with regard to evaluation of the plaintiff, including but not limited to, interview sheets, notes, reports, medical tests and results, whether or not Aetna reviewed them in making its determination on plaintiff's claims.

PRIVILEGE LOG

1. If you assert any claim of privilege, then pursuant to Local Civil Rule 26.2 (former Local Rule 46(e)(2)) , state the privilege on which the claim is based (including work product) and, if based on a claim or defense governed by state law, indicate the state's privilege rule being invoked, and supply all information not privileged, including but not limited to:

(a) For documents:

- (i) the type of document;
- (ii) the nature of the documents or things not produced in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection;
- (iii) the date of the document;
- (iv) such other information as is sufficient to identify the document for a *subpoena duces tecum*, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author and addressee to each other;

(b) For oral communications:

- (i) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication;
- (ii) the date and place of communication;
- (iii) the nature of the communication not disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection;

PLEASE TAKE FURTHER NOTICE, that each request is continuing and must be supplemented at any time that the defendant obtain, or obtains access to, or with reasonable effort is able to obtain new or additional information or documents.

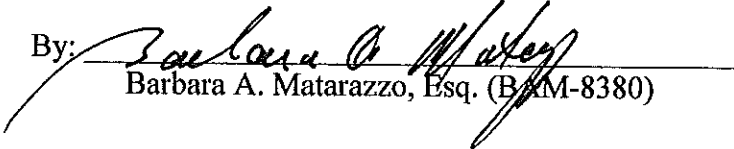
PLEASE TAKE FURTHER NOTICE, that in the absence of a timely response and/or timely supplementation thereof, plaintiff will move to preclude defendant from offering any evidence on the trial of this action as to any question or demand not responsively and fully answered or document not provided as demanded.

Dated: White Plains, New York
March 20, 2013

Yours, etc.,

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1025 Westchester Avenue
White Plains, New York 10604
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By:


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Docket No.: 12cv7162

CHARLES L. DECESARE,

Plaintiff,

-against -

THE AETNA LIFE INSURANCE COMPANY, AND
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PLAINTIFF'S RULE 34 REQUEST FOR PRODUCTION OF DOCUMENTS

LAW OFFICE OF BARBARA A. MATARAZZO

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Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involved potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: _____

Signature _____